

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEMUEL BROWN,

Plaintiff,

Case No. 05-60162

v.

Hon. John Corbett O'Meara

CITY OF DETROIT, *et al.*,

Hon. Virginia M. Morgan

Defendants.

**AMENDED ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF'S COMPLAINT**

On October 30, 2006, the court adopted Magistrate Judge Virginia M. Morgan's September 11, 2006 report and recommendation. Magistrate Morgan recommended that the court grant the City of Detroit's motion to dismiss and dismiss Plaintiff's complaint in its entirety. Plaintiff did not timely object to the report and recommendation, because he did not timely receive it from the court. As a result, this court provided Plaintiff with the opportunity to re-file his objections.

Plaintiff filed his objections on June 14, 2007, primarily challenging the dismissal of his claims arising under the Freedom of Information Act ("FOIA"). The court dismissed Plaintiff's FOIA claim because the federal statute, which Plaintiff invoked in his Amended Complaint, does not apply to state or local governments or agencies. See 5 U.S.C. § 551(1). Plaintiff now contends that he can state a claim under Michigan's Freedom of Information Act, M.C.L. § 15.231. Plaintiff did not, however, plead such a claim in his Amended Complaint. Further, Michigan's FOIA expressly does not permit prisoners to request governmental information.

M.C.L. 15.231 (applies to “all persons, except those persons incarcerated in state or local correctional facilities”). As a prisoner, Plaintiff is excluded from the rights afforded to others under the Michigan FOIA. Accordingly, Plaintiff cannot state a Michigan FOIA claim.

For these reasons, as well as those set forth by Magistrate Judge Morgan in her September 11, 2006 report and recommendation, IT IS HEREBY ORDERED that the report and recommendation is ADOPTED and that Plaintiff’s complaint is DISMISSED WITH PREJUDICE.

s/John Corbett O’Meara
United States District Judge

Dated: June 20, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, June 20, 2007, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager